Amalgamated Transit Union

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Testimony on Behalf of the Amalgamated Transit Union on Senate Bill 7
House Oversight, Reform and Ethics Committee
May 24, 2011

Good afternoon Chairman McMillin and members of the committee. My name is Todd Tennis, and I am the lobbyist for the Amalgamated Transit Union Michigan Legislative Conference. The ATU represents bus drivers, maintenance mechanics and other personnel at several public transportation agencies in Michigan, including DDOT, SMART, the Rapid, and CATA.

I am here today to voice our opposition to Senate Bill 7. The bill would mandate that public employees, including our members, must pay at least 20% of the cost of their health insurance premiums. The ATU feels that his is an unfair infringement upon our collective bargaining rights. Moreover, the legislation ignores contributions employees already make to the cost of health care in the forms of deductibles, co-payments, and negotiated reductions in benefit levels.

For example, ATU members employed by the Detroit Department of Transportation have a $1,000 annual deductible for a single person, and $2,000 for a family. This is in addition to the 10% co-premium that they also pay. When factoring in the deductible, DDOT employees already pay more than 20% of their health care costs, but Senate Bill 7 gives them credit only for the 10% co-premium. By only recognizing one type of out-of-pocket expense for employees, Senate Bill 7 fails to account for the myriad ways in which public employees have negotiated to reduce health care costs for public employers.

Senate Bill 7 also removes a tool that some public employers use to reduce health care costs: incentives for lower-benefit plans. Ingham County offers its employees a choice of three health care plans which provide different levels of benefits. To encourage employees to opt for the least expensive plan, the county does not require any co-premium. The middle plan has a 10% co-premium, and the most expensive has a 20% co-premium. Should SB 7 be enacted, employees using the lowest benefit plan would be required to pay a 20% co-premium. It is very likely in that case that – since they have to pay anyway – they would opt to pay an extra $30 or $40 per month to have a health care plan that offers better coverage. For every employee who switches to a more expensive plan, the county will pay more for health care.

While the above points apply to all public employees covered by this legislation, there is one other factor to consider that only affects public transit agencies. The Federal Transit Administration is governed by 49 USC Chapter 53. Section 5333 of this federal law sets out collective bargaining requirements for agencies that receive federal transit funds. Colloquially known as "13c" language, it states that public transit agencies must certify that they will protect "the continuation of collective bargaining rights" and abide by provisions that uphold "the protection of individual employees against a worsening of their positions related to employment." A copy of this section is attached to this testimony.

There is a risk that the enactment of Senate Bill 7 would jeopardize the ability of the U.S. Department of Transportation to certify that 13c protections are being followed. In that case, Michigan public transit agencies would be at risk of losing millions of dollars in federal transit funds. To get an idea of the severity of that risk, below is a list of federal transit funds some Michigan transit agencies received in 2010:

Detroit Department of Transportation: $50,806,831

Suburban Mobility Authority for Regional Transportation: $48,392,493

Capital Area Transportation Authority: $6,346,628

Grand Rapids ITP: $15,807,604

Kalamazoo Metro Transit: $2,113,374

Jackson Transportation Authority: $1,213,047

Battle Creek Transit: $1,670,873

Jack Eaton, an attorney with the Cousens law firm in Southfield that represents the ATU in Michigan, had the following statement regarding the potential impact of SB 7 on federal transit dollars:

> The labor protections afforded by section 13c allow changes in pay and benefits so long as those changes are made through collective bargaining. When the legislature unilaterally mandates changes in pay, benefits, or pensions, such a change is contrary to the 13c requirements.
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> Mandating those changes in a manner that disregards collective bargaining means the transit operators would not be able to certify the continuing collective bargaining rights of their employees. Without certification of continued bargaining rights, the federal transit administration should not provide further transit funding.
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> Put briefly, mandating payment of 20% of employee health insurance premiums for transit employees would threaten continued federal transit funding. To protect those federal transit funds, the legislature should exempt federally funded transit operations from this mandate.

The ATU opposes Senate Bill 7 on the basis that it fails to recognize concessions that employees have already made to help reduce public employer health care costs. We also do not believe that it will result in the windfall of savings to local governments that have been predicted by its proponents. However, in addition to these objections, we strongly urge the Legislature to consider the possible unintended consequence of a loss of federal transit funding should this act be found to conflict with federal transit laws. At the very least, it would be prudent to request an opinion from the U.S. Department of Labor to make sure that Michigan's public transit agencies will not be harmed.

TITLE 49--TRANSPORTATION

SUBTITLE III--GENERAL AND INTERMODAL PROGRAMS

CHAPTER 53--PUBLIC TRANSPORTATION

Sec. 5333. Labor standards

(a) Prevailing Wages Requirement.--The Secretary of Transportation shall ensure that laborers and mechanics employed by contractors and subcontractors in construction work financed with a grant or loan under this chapter be paid wages not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor under sections 3141-3144, 3146, and 3147 of title 40. The Secretary of Transportation may approve a grant or loan only after being assured that required labor standards will be maintained on the construction work. For a labor standard under this subsection, the Secretary of Labor has the same duties and powers stated in Reorganization Plan No. 14 of 1950 (eff. May 24, 1950, 64 Stat. 1267) and section 3145 of title 40.

(b) Employee Protective Arrangements.--(1) As a condition of financial assistance under sections 5307-5312, 5316, 5318, 5323(a)(1), 5323(b), 5323(d), 5328, 5337, and 5338(b) of this title, the interests of employees affected by the assistance shall be protected under arrangements the Secretary of Labor concludes are fair and equitable. The agreement granting the assistance under sections 5307-5312, 5316, 5318, 5323(a)(1), 5323(b), 5323(d), 5328, 5337, and 5338(b) shall specify the arrangements.

(2) Arrangements under this subsection shall include provisions that may be necessary for—

(A) the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective bargaining agreements or otherwise;

(B) the continuation of collective bargaining rights;

(C) the protection of individual employees against a worsening of their positions related to employment;

(D) assurances of employment to employees of acquired public transportation systems;

(E) assurances of priority of reemployment of employees whose employment is ended or who are laid off; and

(F) paid training or retraining programs.

(3) Arrangements under this subsection shall provide benefits at least equal to benefits established under section 11326 of this title.

(4) Fair and equitable arrangements to protect the interests of employees utilized by the Secretary of Labor for assistance to purchase like-kind equipment or facilities, and grant amendments which do not materially revise or amend existing assistance agreements, shall be certified without referral.

(5) When the Secretary is called upon to issue fair and equitable determinations involving assurances of employment when one private transit bus service contractor replaces another through competitive bidding, such decisions shall be based on the principles set forth in the Department of Labor's decision of September 21, 1994, as clarified by the supplemental ruling of November 7, 1994, with respect to grant NV-90-X021. This paragraph shall not serve as a basis for objections under section 215.3(d) of title 29, Code of Federal Regulations.

(Pub. L. 103-272, Sec. 1(d), July 5, 1994, 108 Stat. 835; Pub. L. 104-88, title III, Sec. 308(e), Dec. 29, 1995, 109